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CASCADE COUNTY ZONING BOARD OF ADJUSTMENT

Meeting Minutes
Thursday, April 12, 2018
9:00 AM

Room #105, Courthouse Annex
Cascade County Commissioners Chambers

Board Members: Bill Austin, Charles Kuether, Leonard Reed, Rob Skawinski

Notice: These minutes are paraphrased and reflect the proceedings of the Zoning Board of Adjustment. These minutes are considered a draft until the Zoning Board of Adjustment approves them.

STAFF ATTENDEES: Alex Dachs, Sandor Hopkins, Anna Weber, Fernando Terrones, and Natalia Wilson

PUBLIC ATTENDEES: Tim Wilkinson, Ryan Meyer, Susan Colvin, Matt Wambach, Ben Ives, Darcy Wilkinson, Lillian Sunwall, Breonna Vereen and Susan Hillstorm.

1. CALL TO ORDER: Chairman Bill Austin called the meeting to order at 9:00am.

2. ROLL CALL

BOARD MEMBERS PRESENT: Bill Austin, Charles Kuether, Leonard Reed, Rob Skawinski

BOARD MEMBERS ABSENT: none

3. APPROVAL OF MINUTES: March 22, 2018 minutes

Len Reed motioned to approve the minutes.

Rob Skawinski seconded the motion.

All in Favor, Motion passes

4. NEW BUSINESS:

A. Public Hearing: Wilkinson - SUP

Sandor Hopkins presented the staff report. Summation is as follows the Cascade County Zoning Board of Adjustment (ZBOA) is in receipt of a Special Use Permit (SUP) application from Tim Wilkinson to allow a Townhome on his land at Lot 5, Block 6, Phase 7 of Spring Tree Ridge subdivision in Cascade County, MT. Geocode and parcel number have not been assigned at time of the application. The applicant is requesting that a Special Use Permit be granted as required by Sections 7.1.2.3(1), and 7.1.1.3(1) of the Cascade County Zoning Regulations.

A Special Use Permit is defined in Section 10 of the Cascade County Zoning Regulations. An SUP is required for conformance to additional standards and shall be deemed necessary in

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Cascade County, Rina Ft Moore - Clerk & Recorder



its respective zoning districts, in addition to other applicable requirements, which are said to possess characteristics of such unique to each case. An SUP may be issued only upon meeting all requirements in these regulations for a specific use per Section 10, and within the respective zoning districts contained in Section 7 or Section 8.1.5 hereof.

The Zoning Board of Adjustment (ZBOA) approval of the Special Use Permit (SUP) shall be valid for only one particular use and shall expire one year after the date of approval, if construction or the use has not started. The Zoning Administrator may grant a one-time only six (6) month extension of the Zoning Board of Adjustment approval. The SUP shall expire if the use ceases for six (6) months for any reason. Any further extension requests must be granted by the ZBOA prior to the date of expiration.

The property is in the Suburban Residential 1 (SR-1) Zoning District. The proposed Townhome is allowed in the Suburban Residential 1 District pursuant to Sections 7.1.2.3(1) and 7.1.1.3(1) of the Cascade County Zoning Regulations.

The Estate of Emma J Wilkinson is the legal owner of the property. The property is not in violation of any Cascade County Zoning Regulations or any other County Ordinance, and county taxes are current. Access to the new dwelling unit will be a driveway from a private road.

Currently the property is legally described as S28, T20N, R3E, Lot 5, Block 6, Phase 7 Spring Tree Ridge. The surrounding land is zoned undeveloped SR-1.

Legal Notice of the application and the public hearing was published in the Great Falls Tribune on April 1, 2018 and April 8, 2018. As of writing this staff report, planning staff have received no phone calls or written comments/concerns.

A special use permit may be revoked by the Cascade County Board of Adjustment at any time a building(s) or use(s) is deemed to be in violation of the standards and zoning requirements under which the special use permit was issued. A violation of a special use permit will be handled as any other violation under Section 13 of these regulations. Appeals of the Zoning Board of Adjustment decision shall follow the process outlined in Section 12 of the Cascade County Zoning Regulations (CCZR).

Staff provides that the following analysis, findings and conclusion for each of the required criteria and conclusions provided under the controlling sections of the CCZR. Conditions may be required that the Zoning Board of Adjustment (ZBOA) determines if implemented, will mitigate potential conflicts in order to reach these conclusions. The proposed development will not materially endanger the public health or safety.

Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and curb approaches. Provision

of services and utilities including sewer, water, electrical, garbage collections, and fire protection. Soil erosion and sedimentation and the protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

Applicant states the addition of one single family residence will have a negligible impact on traffic conditions. Further, the Preliminary Plat approved by the County had 14 more lots than the Final Plat filed on March 13, 2018. As a result, the net traffic impact is significantly less than previously approved. All services are installed to the lot including electrical, natural gas, phone, and public water, and there is a fire recharge hydrant within 30 feet of the lot. The soil conditions are excellent for construction purposes and include gravel and fractured sandstone. The lot is served by a public water system and has been previously approved by the Montana DEQ and therefore will have no impact on surrounding private or public water supplies.

Staff believes that since this lot is part of a recently approved phase extending a residential subdivision the traffic generated will be in line with any comparable residential development. This is a new development, services should be built seamlessly into the lots and structures. That this use will have minimal to no effect on soil erosion and sedimentation, and this lot is part of a subdivision pre-approved by DEQ and will have negligible impact on surface or ground water.

The proposed development is a public necessity, or will not substantially impact the value of adjoining property. The relationship of the proposed use and the character of the development to surrounding uses and development. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or county as whole, to justify it regardless of its impact on the value of adjoining property.

Applicant states that each townhome unit is a single-family dwelling unit in character with the surrounding development.

Staff believes that since this is a new phase of an existing subdivision, Staff believes there is a reasonable assurance that the developer will continue to build in character with the surrounding properties. Staff does not believe that this proposal would create any adverse impacts that would require justification.

The proposed development will be in harmony with the area in which it is located. The relationship of the proposed use and the character of development to surrounding uses and development.

Applicant states that each townhome will be professionally designed and in the \$350,000 to \$400,000 range. Therefore, the units will compliment and will be consistent with the current Spring Tree Ridge development.

Staff believes that the developer has an interest in maintaining the high-end character of the existing neighborhood and strongly doubts that any action would be taken that could generate conflict with surrounding uses and development.

The proposed development will be consistent with the Cascade County Growth Policy objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its location standards.

Goal 1: Sustain and strengthen the economic well-being of Cascade County's citizens.

- A. Stimulate the retention and expansion of existing businesses, new businesses, value-added businesses, wholesale and retail businesses, and industries including agriculture, mining, manufacturing/processing and forest products.
- B. Stabilize and diversify the county's tax base by encouraging the sustainable use of its natural resources.
- C. Identify and pursue primary business development that complements existing business, which is compatible with communities, and utilizes available assets. Identify and pursue targeted business development opportunities to include, but not limited to, manufacturing/heavy industry, telecommunications, and youth/social services.
- D. Promote the development of cultural resources and tourism to broaden Cascade County's economic base.
- E. Foster and stimulate well-planned entrepreneurship among the county's citizenry.
- F. Promote a strong local business environment. Encourage and strengthen business support mechanisms such as chambers of commerce, development organizations and business roundtable organizations.
- G. Improve local trade capture for Cascade County businesses. Promote local shopping as well as well-planned businesses and new businesses.
- H. Network with and support other economic development efforts in the region and statewide, in recognition of Cascade County's interdependence with other communities and to leverage available local resources.
- I. Encourage the growth of the agricultural economy.
- J. Stimulate the growth of the economy by encouraging the use of alternate methods of energy production, including wind energy.

Applicant states that the townhome will increase the tax base by approximately \$5,000 to \$7,000 per annum over the existing vacant lot.

Staff: The creation of desirable high-end homes in Cascade County will provide revenue through taxable property, as well as attract wealthy clients who will circulate money through the County's economy.

Goal 2: Protect and maintain Cascade County's rural character and the community's historic relationship with the natural resource development.

- A. Foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests.

- B. Preserve Cascade County's scenic beauty and conserve its forests, rangelands and streams, with their abundant wildlife and good fisheries.
- C. Preserve Cascade County's open space setting by encouraging new development to locate near existing towns and rural settlements and by discouraging poorly designed, land subdivisions and commercial development.
- D. Assure clean air, clean water, a healthful environment and good community appearance.
- E. Support the development of natural resources including but not limited to timber, mining, oil and gas production, and renewable energy production.
- F. Continue to work with federal and state agencies to redevelop properties within Cascade County which are currently undergoing Superfund and Brownfields process.

Applicant states the lot is currently zoned 1-acre residential and therefore the SUP will have no negligible impact. Applicant states there should be no impact on the preservation of the county's scenic beauty, and the lot is in an approved planned residential development and appropriately zoned. Applicant states there should be no impact on the air, water and environment. Applicant states there should be no impact on natural resource development. Applicant there should be no impact on any Superfund and Brownfield sites.

Staff agrees with the applicant that this proposal will have minimal impact on agriculture or forestry or the natural beauty of the area. Staff believes this proposal will have no negative impact on the County's scenic beauty. Staff agrees with the applicant that this area is the appropriate setting for residential development and is a continuance of the existing residential area. Staff believes that this proposal will have no negative impact on the assurance of clean air, water, environment, or community appearance. Staff believes this proposal is located in an area not suitable for natural resource development. Staff believes that this proposal is not located in an area that has been identified as a Superfund or Brownfields site.

Goal 3: Maintain Agricultural economy

- A. Protect the most productive soil types.
- B. Continue to protect soils against erosion.
- C. Protect the floodplain from non-agricultural development.
- D. Support the development of value-added agricultural industry in Cascade County utilizing the products from the regional area.

Applicant states there would be no impact.

Staff believes that the proposed townhome is not located in an area that is currently used for agricultural purposes and has not been cultivated in recent history. It is reasonable to conclude that this will have no negative impact on the County's agricultural economy.

Goal 4: Retain the presence of the US Military in Cascade County.

- A. Encourage the federal congressional delegation to actively support

maintaining the current mission status at a minimum.

B. Promote the location of additional military missions in Cascade County.

C. Encourage the reactivation of the runway at Malmstrom Air Force Base for fixed wing operations.

D. Refer to the Joint Land Use Study for resolving conflicts and promoting mission compatible development.

Applicant states there would be no impact.

Staff does not believe that this application will have any impact on the presence of the US Military in Cascade County.

Goal 5: Preserve and enhance the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.

A. Maintain Cascade County's citizens independent lifestyle and minimize local governmental intervention, to the extent possible, consistent with the requirements of a continually evolving economy and constantly changing population.

B. Preserve and promote Cascade County's rich cultural heritage, rooted in natural resource development and reflected in its numerous cultural/historic sites and archaeological areas.

C. Promote fire prevention measures throughout the county, giving special emphasis to the extreme fire hazards present at the wild land/urban interface.

D. Encourage the continued development of educational programs and facilities, recreational opportunities and spaces and health services for all county residents.

Applicant states there should be no negative impact but rather may reflect positively on such goal(s).

Staff believes the proposed townhome will not negatively affect the Cascade County's citizens' rural lifestyle. The proposed parcel of land is serviced by the Gore Hill Fire Department.

Consistency with the municipal and joint land use plans incorporated by the Growth Policy and with Operations in connection with the SUP shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

Applicant states there should be no negative impact, but rather may reflect positively on such goal.

Staff believes that the proposal will not have a negative impact on the municipal or joint land use plans, but is likely to have a positive effect on the character of the County.

Motions:

The following motions are provided for the board's consideration:

A. Alternative 1: Move the Special Use Permit to allow the placement of a Townhome on Lot 5, Block 6, Phase 7, Spring Tree Ridge, Cascade County, MT be **denied** due to (ZBOA member proposing denial must delineate legal reason that the application be denied);
or

B. Alternative 2: Move the Board adopt the staff report and **approve** the Special Use Permit to allow the placement of a Townhome on Lot 5, Block 6, Phase 7, Spring Tree Ridge, Cascade County, MT subject to the following conditions:

1. The applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.
2. Applicant obtains addresses from Cascade County Public Works / GIS / Mapping Addressing for E911 purposes
3. Applicant obtains approval for septic permit from City-County Health Department to install septic system

Board Questions:

Applicant: Tim Wilkinson, 75 Spring Tree Drive mentioned the SUP application and requested action was similar to what the board has approved for the 4 or 5 at the Foothills Development. This is in the Spring Tree Ridge Subdivision. Each unit is approximately under 2,000 square feet per unit, side by side and he is available for questions.

Public Hearing opened at 9:16 am

Proponents: none

Opponents: none

Public Hearing closed at 9:16 am

Discussion and Decision

Rob Skawinski made a motion to accept alternative and approve the Special Use permit with conditions 1, 2, and 3.

Charles Kuether seconded the motion.

All in Favor, Motion passes 4-0.

B. Public Hearing: Matthew & Karen Wambach - SUP

Anna Weber presented the staff report. Summation is as follows: the Cascade County Zoning Board of Adjustment (ZBOA) is in receipt of a Special Use Permit (SUP) application from Matthew Wambach, to sell firearms from an existing shop on the same parcel as the applicant's residence located at 1162 County Lane Rd, Fort Shaw, MT. The applicant is requesting that a SUP be granted as required by Section 7.2.4 (21) of the Cascade County Zoning Regulations.

A Special Use Permit is defined in Section 10 of the Cascade County Zoning Regulations. An SUP required for conformance to additional standards and shall be deemed necessary in its respective zoning district, in addition to other applicable requirements, which are said to possess characteristics of such unique to each case. An SUP may be issued only upon meeting all requirements in these regulations for a specific use per Section 10, and within the respective zoning districts contained in Section 7 or Section 8.1.5 hereof.

The Zoning Board of Adjustment can approve, deny, or approve with conditions the Special Use Permit. The Zoning Board of Adjustment (ZBOA) approval of the Special Use Permit (SUP) shall be valid for only one particular use and shall expire one year after the date of approval, if construction or the use has not started. The Zoning Administrator may grant a one-time only six (6) month extension of the Zoning Board of Adjustment approval. The SUP shall expire if the use ceases for six (6) months for any reason. Any further extension requests must be granted by the Zoning Board of Adjustment prior to the date of expiration.

The property is in an Agricultural (A) Zoned District. The proposed federal firearms dealer/specialty sales business is allowed in the Agricultural (A) District pursuant to Section 7.2.4 (21) of the CCZR. The adjacent land is zoned Agricultural (A) and Teton County is to the north.

Matthew and Karen Wambach are the legal owners of the property where the business is to be located. The property is not in violation of any Cascade County Zoning Regulations or any other County Ordinance, and county taxes are current. The property is legally described as Geo Code: 02-3135-04-1-02-01-0000, Parcel Number: 6120200, and S4, T21N, R1W.

Legal notice of the application and the public hearing was published in the *Great Falls Tribune* on April 1 & 8, 2018, and was mailed to surrounding neighbors with certified letters on March 29, 2018. At the time of writing this report, staff has received no comments.

An SUP may be revoked by the ZBOA at any time a building(s) or use(s) is deemed to be in violation of the standards and zoning requirements under which the permit was issued. A violation of a special use permit will be handled as any other violation under

Section 13 of these regulations. Appeals of the Zoning Board of Adjustment decision shall follow the process outlined in Section 12 of the Cascade County Zoning Regulations (CCZR).

Staff provides that the following analysis, findings and conclusion for each of the required criteria and conclusions provided under the controlling sections of the CCZR. Conditions may be required that the Zoning Board of Adjustment determines if implemented, will mitigate potential conflicts in order to reach these conclusions. The proposed development will not materially endanger the public health or safety.

Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and curb cuts. Provision of services and utilities including sewer, water, electrical, garbage collections, and fire protection. Soil erosion and sedimentation and the Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

Applicant states There will be minimal (almost no) additional traffic because most of my business will be on the internet and myself traveling to and from gun shows which I already attend. There will be no public services of any kind being added to this property to accommodate my business plan. There will be no impact to soil erosion, sedimentation, or storm water run-off. There will be no need to provide protection for any water supply in the vicinity as I am not adding any equipment that requires chemicals of any kind.

Staff believes within the operational statement provided the applicant only projects to have between five (5) to ten (10) customers per month. Planning staff does not anticipate a dramatic increase in traffic due to the approval of this SUP application. The applicant is not proposing to construct new structures or facilities. Planning staff does not anticipate any change to the provision of services and utilities, including water and waste water, trash, and fire protection with the proposed business. The applicant does not plan on building additional structures, this project will not likely adversely impact soil erosion and sedimentation. The applicant only anticipates between five (5) to ten (10) customers per month, county staff does not anticipate enough customers on site to negatively impact the wastewater system. If the use on the wastewater system reaches twenty-five (25) or more users for sixty (60) or more days a year, it will need to be reviewed as a public water/wastewater system.

The proposed development will not substantially injure the value of adjoining property, or is a public necessity. The relationship of the proposed use and the character of the development to surrounding uses and development. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or county as whole, to justify it regardless of its impact on the value of adjoining property.

Applicant states My business is not a public necessity. It will have no impact on the value of adjoining property. The proposed business has no impact on public health or safety. All firearms will be secured in safes at all times unless being worked on, viewed, or used.

Staff does not anticipate conflicts between surrounding property owners as a result of the proposed business. Staff does not believe the proposed business will have a positive or negative impact on the public health, safety, and general welfare of the community.

The proposed development will be in harmony with the area in which it is located. The relationship of the proposed use and the character of development to surrounding uses and development.

Applicant states There will be no foreseen adverse effects to surrounding areas.

Staff believes that with inclusion of the conditions of approval, staff believes that selling firearms online and on an appointment basis is an appropriate use for the location.

The proposed development will be consistent with the Cascade County Growth Policy objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its location standards.

Goal 1: Sustain and strengthen the economic well-being of Cascade County's citizens.

- A. Stimulate the retention and expansion of existing businesses, new businesses, value-added businesses, wholesale and retail businesses, and industries including agriculture, mining, manufacturing/processing and forest products.
- B. Stabilize and diversify the county's tax base by encouraging the sustainable use of its natural resources.
- C. Identify and pursue primary business development that complements existing business, which is compatible with communities, and utilizes available assets. Identify and pursue targeted business development opportunities to include, but not limited to, manufacturing/heavy industry, telecommunications, and youth/social services.
- D. Promote the development of cultural resources and tourism to broaden Cascade County's economic base.
- E. Foster and stimulate well-planned entrepreneurship among the county's citizenry.
- F. Promote a strong local business environment. Encourage and strengthen business support mechanisms such as chambers of commerce, development organizations and business roundtable organizations.
- G. Improve local trade capture for Cascade County businesses. Promote local shopping as well as well-planned businesses and new businesses.
- H. Network with and support other economic development efforts in the region and statewide, in recognition of Cascade County's interdependence with other communities and to leverage available local resources.

- I. Encourage the growth of the agricultural economy.
- J. Stimulate the growth of the economy by encouraging the use of alternate methods of energy production, including wind energy.

Applicant states that my business will stimulate the shipping and receiving industry. My business does not have an impact on natural resources. My business will target fine firearms collectors nationwide, and will provide a legal licensed selling service for folks that are liquidating their firearms. My business will have no impact on the development of cultural resources or tourism. I Believe my business will thrive and might possibly become a model for others to follow. My business will enhance the business environment in my area and I will be open for consultation services to any organization that has questions or concerns. My business will provide limited local shopping while I am selling at local gun/trade shows. I support any economic development efforts in Montana and would be happy to consult with any organization. My business will have no impact on agricultural economy. My business will not have any impact on alternative methods of energy production.

Staff says that according to the application information provided, the proposed business would positively impact Cascade Counties economy through the buying, selling, and trading of firearms locally as well as nationwide. The applicant's proposed business does not apply to natural or alternate methods of energy. Staff feels that the proposed business is consistent with Goal 1 of the Cascade County Growth Policy.

Goal 2: Protect and maintain Cascade County's rural character and the community's historic relationship with the natural resource development.

- A. Foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests.
- B. Preserve Cascade County's scenic beauty and conserve its forests, rangelands and streams, with their abundant wildlife and good fisheries.
- C. Preserve Cascade County's open space setting by encouraging new development to locate near existing towns and rural settlements and by discouraging poorly designed, land subdivisions and commercial development.
- D. Assure clean air, clean water, a healthful environment and good community appearance.
- E. Support the development of natural resources including but not limited to timber, mining, oil and gas production, and renewable energy production.
- F. Continue to work with federal and state agencies to redevelop properties within Cascade County which are currently undergoing Superfund and Brownfields process.

Applicant states his business will have no impact on natural beauty of grazing areas, farmland, or forests, nor on streams, rangelands or wild life. The business will be located at my home and acreage which is very nice. My business will not involve a commercial development. My business will have no impact on clean air, clean water, healthy environment or appearance. My business and I will always support the development of natural resources. I will work with anyone or anybody.

Staff believes the proposed business would not positively or negatively impact Cascade County's rural character or the community's historic relationship with the natural resource development. The applicant is not building any new structures. Staff feels that the proposed business is consistent with Goal 2 of the Cascade County Growth Policy.

Goal 3: Maintain Agricultural economy

- A. Protect the most productive soil types.
- B. Continue to protect soils against erosion.
- C. Protect the floodplain from non-agricultural development.
- D. Support the development of value-added agricultural industry in Cascade County utilizing the products from the regional area.

Applicant states that My business will have no impact on productive soil types. My business will have no impact on soil erosion. My business will have no impact on the floodplain, and will utilize any and all regional products needed to conduct business.

Staff believes that the proposed business will have no positive or negative impacts on productive soil types or soil erosion due to no new structures being built on the property. According to the FEMA map, the parcel is located in Zone D which means it is an unstudied area. The designated floodplain zone should not be a problem because no new structures are being built. The proposed business will not impact Cascade County's value-added agricultural industry.

Goal 4: Retain the presence of the US Military in Cascade County.

- A. Encourage the federal congressional delegation to actively support maintaining the current mission status at a minimum.
- B. Promote the location of additional military missions in Cascade County.
- C. Encourage the reactivation of the runway at Malmstrom Air Force Base for fixed wing operations.
- D. Refer to the Joint Land Use Study for resolving conflicts and promoting mission compatible development.

Applicant states that he and his business will support the legal activity of the federal government. The business will support any and all military missions in Cascade County, and will support the runway reactivation and any other plans to further validate MAFB. He would cooperate with any entity to resolve conflicts.

Staff believes that Mr. Wambach's proposed business would not positively or negatively impact the presence of the US Military in Cascade County. The proposed parcel of land is over thirty (30) miles away from Malmstrom Air Force Base. The parcel is over a mile away from a Missile Launch Facility.

Goal 5: Preserve and enhance the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.

- A. Maintain Cascade County's citizens independent lifestyle and minimize local governmental intervention, to the extent possible, consistent with the requirements of a continually evolving economy and constantly changing population.
- B. Preserve and promote Cascade County's rich cultural heritage, rooted in natural resource development and reflected in its numerous cultural/historic sites and archaeological areas.
- C. Promote fire prevention measures throughout the county, giving special emphasis to the extreme fire hazards present at the wild land/urban interface.
- D. Encourage the continued development of educational programs and facilities, recreational opportunities and spaces and health services for all county residents.

Applicant states that he will maintain and assist with maintaining current lifestyle of citizen's and change policies as needed. He would support and preserve the cultural heritage in this area. He would promote fire prevention and will advocate for surplus brush and weed removal along country roads and right of ways. My business may expand at some point to provide safe firearms instruction to the public.

Staff believes that the property is located within the Fort Shaw Volunteer Fire Department's jurisdiction. The proposed business should not positively or negatively impact the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.

Consistency with the municipal and joint land use plans incorporated by the Growth Policy and with Operations in connection with the Special Use permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

Applicant: My Business will have no impact on municipal and joint land use plans.

The Municipal and Joint Land Use Plans incorporated by the Growth Policy were set up to ensure communication takes place between Malmstrom Air Force Base and the Cascade County Planning Division where projects may have an impact on MAFB operations. The regulations pertain to construction activity around Missile Alert Facilities or Launch Facilities, and the height of development around the Height Military Overlay District. Mr. Wambach's residence and proposed location for the sales of firearms is not within the regulatory one-thousand (1,000) feet of any of these critical facilities. From the application information submitted, Mr. Wambach's proposed business will not be more objectionable to nearby properties than current allowed uses within Agricultural district, which include a commercial dairy on a parcel twenty (20) acres or larger, a golf driving range on a parcel five (5) acres or larger, a campground, a bed and breakfast, a tourist home, or a power plant/commercial wind farm not to exceed one (1) megawatt.

Motions:

The following motions are provided for the board's consideration:

- A. Alternative 1: Move the Special Use Permit to allow the operation of a Federal Firearms Retailer, Dealer, and Repair on the property be **denied** due to (ZBOA member proposing denial must delineate legal reason that the application be denied);
- or
- B. Alternative 2: Move the Board adopt the staff report and **approve** the Special Use Permit to allow the operation of a Federal Firearms Retailer, Dealer, and Repair on the property, subject to the following conditions:
 - 1. the applicant obtains approval to sell firearms from the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) and,
 - 2. The applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.

Board Questions/Comments

Applicant: Matt Wambach, 1162 County Line Road, was available for questions. He has retired from his job and is turning his hobby into a business, generate income to pay bills. **Bill Austin** asked if he was operating this business currently.

Matt Wambach stated that he is currently doing it on a hobby level, not a business level. He walks around at the gun shows and usually buys one or two.

Charles Kuether asked if he had a Federal Firearms License?

Matt Wambach stated he does not and in order to get it he doesn't want to mess around with the federal government and wants to have his ducks in a row when he does apply and be compliant with everything he can, so when he does apply so the application goes through.

Charles Kuether asked for clarification on a statement in the application "that the business provides, limited local shopping while shopping at local gun shows?"

Matt Wambach most FFL dealers provide services or an avenue for someone to sell a gun locally and that sales must occur on a licensed premise, so it must be sold on his premises for the gun to be bought/sold. Does not want to advertise in the Sunday paper to come buy guns at his premises. He will go to gun shows and sell other guns online which will make up most of his business.

Bill Austin that most will be online?

Matt stated that most online and attending gun shows maybe 12 a year, doesn't plan on leaving the state.

Bill Austin asked about online purchases must come to premises?

Matt Wambach stated he must ship the gun to another licensed Federal Firearms dealer and the purchaser would go to the FFL dealer to complete the transfer, so it legal and background checks are completed. Would like to see more sales online as it goes to dealer who does background check and gives him peace of mind.

Len Reed asked about the geography of the county and his location to nearby towns.

Matt replied he is 10 feet from Teton County to the North, and located near the cut-off to Choteau, he is closest to Fairfield but 20 miles from Simms.

Bill Austin asked about him applying to FFL license?

Matt responded he would apply for FFL after this gets approved. So, he has started with this and has had many discussions with Planning Staff

Bill Austin asked for Proponents.

Public Hearing opened at 9:43 am

Proponents: **Susan Colvin 287 McIver Road**, any issues with him getting license before board grants him change of zone, has concerns if he is operating or selling guns or doing background checks without Federal approval, or government knowledge.

Bill Austin stated he is asking for approval of the business then he will apply for the FFL, and doesn't want to apply unless he receives approval from the board

Charles Kuether clarified that he would not be doing business until he receives FFL, but he is asking for board approval to operate the business, a precursor the getting the FFL.

Susan Colvin Wanted clarification on the statement that **Matt** mentioned "he is already doing this."

Charles Kuether stated what **Matt** is going to a gun show the way that any of us individuals can go to a gun show and purchase a gun, he is not doing business now.

Susan stated she wanted to ask because not every state is on the line to get these notices and she did not know the laws.

Charles Kuether stated you might be stretching our knowledge about gun laws is not something we deal with either.

Ben Ives P.O. box 263, Black Eagle did not come to the meeting to be a proponent, but having listened to the meeting is a proponent because he shoots and traps and there doesn't seem to be in the industry of gun ownership an abundance of gunsmiths and FFL dealers in Montana doesn't know if the government has chased them away or red tape has gotten their way, and he admires **Matt** for trying to do this the right way getting everything set up and then applying for his permits. He thinks there is a need in the county, Montana is a gun state and we are losing our gunsmiths and FFL dealers.

Bill Austin called for opponents: none

Public Hearing closed at 9:48 am

Discussion and Decision

Charles Kuether motion to approve the staff report.

Rob Skawinski seconded the motion.

All in Favor, Motion passes

C. Public Hearing: Pacific Northwest Solar, LLC - UUP

Anna Weber presented the staff report. Summation is as follows the Cascade County Zoning Board of Adjustment (ZBOA) is in receipt of an Unclassified Use Permit (UUP)

Application from the Pacific Northwest Solar, LLC and property owners Robert and Darla Heihn for the installation/operation of a photovoltaic solar power generation facility.

The applicant is requesting that an Unclassified Use Permit (UUP) be granted as required by Section 18.1 (9) of the Cascade County Zoning Regulations (CCZR).

Pursuant to Sections 8.9, 8.12, and 18 of the Cascade County Zoning Regulations an Unclassified Use Permit is authorized for:

Section 8.9 Power Plants providing they meet the following conditions:

1. must meet all state, federal, and local regulations regarding the uses.
2. must not have any advertising signage attached to them.
3. must not interfere with any electrical components of neighboring properties.
4. must be fenced or protected to prohibit unauthorized access.
5. must be located at least 1000 feet from any use listed in 7.1.1.1 (2).

Section 8.12 Power Plant, Solar, providing they meet the following conditions:

Based on the typical solar power plant design, uses tend to be low in intensity with minimal trip generation, low amounts of impervious cover, and low emission thus the use may be compatible in both urbanized and non-urbanized areas throughout the County. Standards for power plant generation by solar energy shall be subject to the administrative requirements of Section 18 and the following site development standards:

- (1) Lot coverage: All buildings including accessory buildings shall not cover more than thirty-five percent (35%) of a lot unless adjusted by the Zoning Board of Adjustment.
- (2) Setbacks: solar power plant structures shall be set back from all property lines at least thirty (30) feet from the front and six (6) feet from the side yards, and ten (10) feet from a rear yard.
- (3) Landscaping Buffer: as determined by the Zoning Board of Adjustment through the Unclassified Use Permit process with considerations of location, size of parcel and topography of parcel. Appropriate landscaping and/or screening materials may be required to help screen the solar power plant and accessory structures from major roads and neighboring residences.
- (4) No solar power plant tower or other tall structure associated with a solar power plant shall be lighted unless required by the Federal Aviation Administration (FAA). When lighting is required by FAA, it shall be the red, intermittent, glowing-style, rather than the white, strobe-style.
- (5) Siting requirements of any structure within the Height Military Overlay District (HMOD) must be met. Any variance requested for over-height must be presented to Malmstrom's reviewing staff and approved.
- (6) Safety/Access: An appropriate security fence (height and material to be determined through the Unclassified Use Permit process) shall be placed around the perimeter of the solar power plant.
- (7) Signage: appropriate warning signage shall be placed at the entrance and perimeter of the solar power plant project.
- (8) Noise: No operating solar power plant shall produce noise that exceeds any of the following limitations:

- (a) Fifty dBA, as measured at the property line of any neighboring residentially-zoned lot;
 - (b) Forty-five dBA, as measured at any existing neighboring residence between the hours of nine p.m. and seven a.m.
 - (c) Sixty dBA, as measured at the property lines of any other project boundary.
- (9) Agreements/Easements: If the land on which the project is to be leased rather than owned by the solar energy development company, all property within the project boundary must be included in a recorded easement(s), lease(s), or consent agreement(s) specifying the applicable uses for the duration of the project and a copy provided with an Unclassified Use Permit application.
- (10) Removal: Structures that remain nonfunctional or inoperative for a continuous period of one year shall be deemed to be abandoned, shall constitute a public nuisance and shall be removed by the owner/operator.

Section 18 Unclassified Use Permits, providing they meet the following requirements. Unclassified uses shall be subject to all applicable property development standards of the district in which they are to be located and to the provisions outlined within this section. The following uses may be permitted by Unclassified Use Permits (UUP) except for any use, including a power generating plant, which utilizes coal-based fuel as an industrial fuel source. Unclassified uses are hereby said to possess characteristics of such unique and special forms that each use shall be considered as an individual case regardless of their underlying zone district. An UUP may be issued only upon meeting all requirements in these regulations for a specific use which is explicitly mentioned as one of the "Uses Permitted Upon Issuance of an Unclassified Use Permit" as provided in this section. The Zoning Board of Adjustment can approve, deny, or approve with conditions the UUP. A separate permit shall be required per each tract of land.

Before the Board of Adjustment can approve any Unclassified Use Permit, it must first reach each of the following conclusions. The proposed development will not materially endanger the public health or safety.

Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersections and approaches. Provision of services and utilities, including sewer, water, electrical, telecommunications, garbage collection, and fire protection. Soil erosion, sedimentation, and storm water run-off. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

The proposed development is a public necessity, or will not substantially impact the value of adjoining property. The relationship of the proposed use and the character of development to surrounding uses and development. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or County as a whole as to justify it regardless of its impact on the value of adjoining property.

The proposed development will be in harmony with the area in which it is located and the relationship of the proposed use and the character of development to surrounding uses and development.

The proposed development will be consistent with the Cascade County Growth Policy objectives for the various planning areas, and the municipal and joint land use plans incorporated by the Growth Policy.

Section 18.6 Operations in connection with the Unclassified Use Permits (UUP) shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

Staff provides that the following analysis, findings and conclusion for each of the required criteria and conclusions provided under the controlling sections of the Zoning Regulations (CCZR). The proposed development will not materially endanger the public health or safety.

Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and approaches. Provision of services and utilities including sewer, water, electrical, garbage collections, and fire protection. Soil erosion and sedimentation. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

APPLICANT states the traffic conditions in the project vicinity are very light due to Bootlegger Road being a rural road with very low residential development in the area. The project will not add significantly to the traffic in the area due to the facility being an un-manned facility and not needing maintenance on a week to week basis. The project will not require water, sewer, or garbage services. It will connect to the existing distribution electrical line on Bootlegger Road. The project will involve only limited grading for on-site roads and inverters. The ground under the solar array will not require grading. Additionally, existing vegetation will be maintained to add with elimination of soil erosion. The Project will comply with MDEQ erosion control standards. The Project does not require connection to the public water supply and will not create erosion and therefore will not impact surface or ground waters.

STAFF: Based upon the application materials submitted, the project is not expected to materially endanger the public health or safety with respect to traffic conditions in the vicinity including the proposed anticipated traffic involved with initial construction, and the proposed anticipated traffic generated once the facility is in operation. The MDT conducted a traffic count on Bootlegger Trail in 2016 that concluded, on average there are 2,244 trips per day. The trips per month to maintain the solar plant should not negatively or positively impact the traffic conditions. The application materials demonstrate that the project will not affect the provision of services and utilities including sewer, water, garbage collection and fire protection

based upon the application materials submitted, as this facility does not have a need for telecommunications, water, sewer, or garbage collection after construction. The application materials included a system impact study done by Northwestern Energy that concluded that the solar plant would not interfere with neighboring properties power supplies. Fire Protection Services will be provided by Black Eagle Fire District. The application material proposals for storm water management as well as required compliance with MDEQ regulations would indicate that the project will minimally effect soil erosion and sedimentation, either during the construction phase or after construction during the operational period based upon a detailed erosion and sedimentation control plan that seeks to minimize disturbance of the natural vegetation, soils, and drainage paths currently existing on the project site. Natural vegetative growth is encouraged after construction. MDEQ is the authority that administers Storm Water permits locally. The applicant will need to obtain a Storm Water Discharge permit from MDEQ for construction activities including grading, clearing, excavation or other earth disturbing activities that disturb one or more acres. MFWP suggests that disturbed areas be reseeded to regionally native species to reduce the overall impacts of the disturbance. The project will not interfere with the protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater based on the application materials submitted and the requirements of compliance with the MDEQ regulations regarding these criteria. Montana FWP suggests that even though the proposed site has low value to wildlife, it is close to Benton Lake National Wildlife Refuge and encouraged the staff to contact Benton Lake NWR for comment. An interested agency notice was sent but Staff received no comment as of time of writing. A concern FWP has is the passage of waterfowl between Benton Lake Refuge and the Missouri River. FWP recommends using the design standards in the Fish and Wildlife Recommendations for Subdivision Development in Montana. To reduce the possibility of "Lake Effect" that solar plants can give off, FWP suggests breaking up the reflective surface with non-polarizing white borders to avoid the solar panels looking like a body of water. Having underground powerlines as well as a protocol in place for injured birds discovered on site are also suggestions from FWP.

The proposed development is a public necessity, or will not substantially impact the value of adjoining property. The relationship of the proposed use and the character of the development to surrounding uses and development. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or County as a whole as to justify it regardless of its impact on the value of adjoining property.

APPLICANT states that the existing character of the uses of the subject property and surrounding uses is very low density residential and agricultural uses. The project will be an un-manned solar farm that will not impact any existing uses outside of the boundaries of the project perimeter fence. The Project will provide electricity generation that will be consumed locally with the Cascade County and Great Falls area. This electricity will reduce the amount of electricity that travels to the Great

Falls area via transmission lines which will increase the efficiency of the electrical grid.

STAFF believes the proposed development would not interfere with or cause conflict with the surrounding uses and development of the lands adjacent. While the proposed parcel is zoned SR2, the surrounding land is used for agriculture, heavy industrial, high voltage powerlines, gas and electrical sub-station, commercial, and residential. STAFF believes the proposed development is not a public necessity. Staff finds based on the application materials, the impact analysis performed, and the proposed mitigation techniques collectively could be found to demonstrate that the proposed development will not substantially impact the value of adjoining property. The application materials included an impact study which was conducted by Richard Kirkland, Kirkland Appraisals, LLC. Mr. Kirkland used statistics throughout the United States in similar demographics of which he has appraised over 200 solar project impacts. While he states that he has not been asked to assign any specific value to any specific property, he has used neighborhood analysis and paired sales analysis for the basis of his conclusions. These conclusions support that the solar plant would not negatively impact the adjoining properties. The applicant has expressed that the proposed development is not necessary to the public health, safety, and general welfare of the community or County as a whole as to justify it regardless of its impact on the value of adjoining property.

The proposed development will be in harmony with the area in which it is located, and the relationship of the proposed use and the character of the development to surrounding uses and development.

APPLICANT states that due to the passive nature of the facility and the rural character of the existing uses surrounding the project site, no conflicts are anticipated between the existing uses and the Project.

STAFF believes that with Suburban Residential, Agricultural, Industrial and Utility type uses visible throughout the area, that the project as presented, would be in harmony with the surrounding area which does include a variety of uses other than just suburban residential. The CCZR allow by right several permitted principal uses within SR2 that could be considered less harmonious with the surrounding area zoning and surrounding area uses. For example, Educational Facilities, Public Buildings, Day Cares, Group Homes, Day Care Centers, Retirement Homes, Nursing Homes, and Public Institutions; all of which have the potential to have significant traffic volumes, noise, lights, glare, etc. that could be deemed to be less harmonious with the surrounding properties than the use proposed with this application. With the small size of the solar powered electrical generation facility that is proposed, the minimal impact from traffic, noise, glare, etc that this facility would produce during operation, along with the landscape plan proposed for softening the impact of its presence, staff finds that the proposed development can be considered to be in harmony with the area in which it is located.

The proposed development will be consistent with the Cascade County Growth Policy objectives for the various planning areas.

Goal 1: Sustain and strengthen the economic well-being of Cascade County's citizens.

- A. Stimulate the retention and expansion of existing businesses, new businesses, value-added businesses, wholesale and retail businesses, and industries including agriculture, mining, manufacturing/processing and forest products.
- B. Stabilize and diversify the county's tax base by encouraging the sustainable use of its natural resources.
- C. Identify and pursue primary business development that complements existing business, which is compatible with communities, and utilizes available assets. Identify and pursue targeted business development opportunities to include, but not limited to, manufacturing/heavy industry, telecommunications, and youth/social services.
- D. Promote the development of cultural resources and tourism to broaden Cascade County's economic base.
- E. Foster and stimulate well-planned entrepreneurship among the county's citizenry.
- F. Promote a strong local business environment. Encourage and strengthen business support mechanisms such as chambers of commerce, development organizations and business roundtable organizations.
- G. Improve local trade capture for Cascade County businesses. Promote local shopping as well as well-planned businesses and new businesses.
- H. Network with and support other economic development efforts in the region and statewide, in recognition of Cascade County's interdependence with other communities and to leverage available local resources.
- I. Encourage the growth of the agricultural economy.
- J. Stimulate the growth of the economy by encouraging the use of alternate methods of energy production, including wind energy.

APPLICANT states that the Project will add to the diversity of businesses in the Great Falls area and provide significant jobs and expenditures during the construction phase of the project. The Project will provide a significant tax revenue increase when compared to the existing use of the subject property. The Project will utilize a natural resource (sunlight) to create electricity that will be used locally in the Cascade County and Great Falls area. The Project will also provide construction jobs, tax revenue, and expenditures related to the construction and operations of the facility. The project will not impact cultural resources or related tourism in Cascade County. Citizens and businesses in Cascade County will have the opportunity to participate in the construction and maintenance of the facility which will require significant expenditures by the Project. Citizens and businesses in Cascade County will have the opportunity to participate in the construction and maintenance of the facility which will require significant expenditures by the Project. The construction and maintenance related expenditures will provide significant benefit to existing businesses in Cascade County. The Project will create economic development through the use of natural sunlight to create energy. This project in addition to other solar projects in the region will add to the growing solar industry in Cascade County and

surrounding communities. The project will not negatively impact the agricultural economy. The Project is a solar energy generation facility.

STAFF: The project could be considered to stimulate the retention of existing businesses in that existing companies may be used for construction and maintenance. Expansion of existing businesses would be short term due to the initial construction and possible expansion of existing businesses due to maintenance needs of the proposed facility. The other types of business such as new businesses, value added businesses, wholesale and retail businesses and industries including agriculture, mining, manufacturing/processing and forest products would probably not be impacted positively or negatively by this application. The plant may increase solar technology by promoting further expansion in the county of these types of facilities. Based on the application materials submitted, the county's tax base would be helped by the diversity of this industry as Black Eagle does have one commercial solar facility. An additional solar plant would promote stabilizing the tax base as there would be an increase due to the property being taxed as commercial property and business equipment. This would be a higher tax than is currently being assessed on the land which is classified agricultural land (Vacant Land/Rural). Based on the application materials submitted, the project could be considered to identify and pursue business development that complements existing businesses. The existing businesses may be used for the construction and maintenance of the solar generating power plant facility. This also identifies and pursues new business development around solar generation facilities in Cascade County. It would also be expected that business development would be compatible with communities and utilize available assets such as using local products. Identifying and pursuing targeted business development opportunities to include, but not limited to manufacturing/heavy industry, telecommunications and youth/social services would not be impacted positively or negatively by this application. Based on the application materials submitted, the project is not expected to promote the development of cultural resources. Also, this project is not expected to promote tourism and therefore will not have an immediate impact on tourism to broaden Cascade County's economic base. Based on the application materials submitted, the project may foster and stimulate well-planned entrepreneurship among the county's citizenry. While it does bring new ideas, technology, and energy production to the county, it cannot be determined if this will foster or stimulate well planned entrepreneurship among county citizens. This new industry has the potential to stimulate current farmers/ranchers to explore this type of energy production. Based on the application materials submitted, the project may promote a strong local business environment, by encouraging and strengthening business support mechanisms such as chambers of commerce, development organizations and business roundtable organizations as this is a newer and upcoming industry to the county. By having a second solar power plant, other similar business models and plans may be brought to Cascade County. This project could be used as a template model and as a business model for other companies to bring similar proposals to Cascade County. Based on the application materials submitted, this project would improve local trade capture for Cascade County businesses, as existing businesses may be utilized for construction

materials or other necessities. Those items may be purchased locally which would promote local shopping and well-planned businesses or new businesses as stores may diversify what they offer or current product lines they carry to meet the needs of the solar generation facility and the workers. Based on the application materials submitted, the project would be a starting point to build a network with and support economic development efforts in the region and statewide, as the solar industry is new to Cascade County and Montana. Cascade County may be able to provide a statewide model that brings local resources such as construction, landscape and electrical workers or businesses to fill jobs that are available when bringing clean energy to their communities. As wind energy development in Cascade County has led to economic development efforts, collaboration with local educational facilities, and an increase in networking amongst professionals, solar projects of this type may also lead to similar results. Based on the application materials submitted, the growth of the agricultural economy would not be affected positively or negatively. The parcel of land the project is seeking to use is not used for agriculture purposes currently. The growth of the agricultural economy may not be encouraged in the County, as farmers and ranchers are facing low returns on agricultural products and may attempt to incorporate a solar farm on what once was a high dollar wheat field or cattle operation in order to cut losses. Based on the application materials submitted, the project would stimulate the growth of the economy by encouraging the use of alternative methods of energy production, but rather than including wind energy, this energy production includes solar energy.

Goal 1 of the Growth Policy analysis by staff, concludes the applicant has demonstrated relative information for a determination that they have met, in part or in whole, objectives A, B, C, D, F, H and J. With regards to Goal 1, Objective E to "foster and stimulate well-planned entrepreneurship among the County's citizenry", and Objective G to "improve local trade capture for Cascade County businesses. Promote local shopping as well as well-planned businesses and new businesses", staff finds that these are subjective for the application submitted. Analysis of Objective I, "encourage the growth of the agricultural economy," it can be found that this project does not hinder or promote the agricultural economy.

Goal 2: Protect and maintain Cascade County's rural character and the community's historic relationship with the natural resource development.

- A. Foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests.
- B. Preserve Cascade County's scenic beauty and conserve its forests, rangelands and streams, with their abundant wildlife and good fisheries.
- C. Preserve Cascade County's open space setting by encouraging new development to locate near existing towns and rural settlements and by discouraging poorly designed, land subdivisions and commercial development.
- D. Assure clean air, clean water, a healthful environment and good community appearance.
- E. Support the development of natural resources including but not limited to timber, mining, oil and gas production, and renewable energy production.

- F. Continue to work with federal and state agencies to redevelop properties within Cascade County which are currently undergoing Superfund and Brownfields process.

APPLICANT: *The project will not negatively impact the agricultural or forestry industries. The project will not negatively impact the Cascade County scenic beauty or natural environment. It will help to reduce the amount of energy generated by traditional carbon-based systems that do create pollution and negatively impact the environment. The Project will not lead to an expansion of residential or commercial developments outside of the existing Great Falls area. The project will produce clean renewable energy that will be consumed locally within Cascade County. The project is a solar energy generation facility. The project will not negatively impact development of brownfield and superfund sites.*

STAFF: Based on the application materials and mitigation plans submitted, the project was structured to minimize disturbance of the land's current state, allowing the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests. Therefore, it is not expected to have a positive or negative effect on their economic contribution nor the intrinsic natural beauty of grazing areas, farmlands, and forests. Based on the application materials submitted, the project would conserve Cascade County's forests, rangelands and streams, with their abundant wildlife and good fisheries. There is reasonable evidence that this objective will be met with the implementation of proposed mitigation conditions. Based on the application materials submitted, there is reasonable evidence that the goal to preserve Cascade County's open space setting by encouraging new development to locate near existing towns and rural settlements and by discouraging poorly designed land subdivisions and commercial development is met by this proposed use. The tract of land proposed for this development is located near the existing Great Falls city boundary. Based on the application materials submitted, the project should not inhibit the assurance of clean air and clean water, a healthful environment and good community appearance. This is a reasonable finding with the implementation of proposed mitigation conditions as well as the lands adjacent to the proposed parcel having no residences on them except for the owners of the proposed parcel having their personal home, and renting out of two mobile homes. While producing energy in a way that reduces carbon emissions, Cascade County is promoting a green energy resource. To uphold good community appearance, the applicant plans to construct a landscaping buffer along the north side of the solar plant that is visible to the residences located on Bootlegger Lateral. Based on the application materials submitted, the project supports the development of natural resources in renewable energy production. Based on the application materials submitted, this use would not have an impact positively or negatively on this goal.

Goal 2 of the Growth Policy analysis by staff concludes the applicant has demonstrated relative information for a determination that they have met, in part or in whole, Objectives B, C, D, and E. Objective A "foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests" is not promoted or hindered by the proposed use. Objective F would not be impacted as it does not apply to this application as this site is not a Brownfield or Superfund site.

Goal 3: Maintain Agricultural economy

- A. Protect the most productive soil types.
- B. Continue to protect soils against erosion.
- C. Protect the floodplain from non-agricultural development.
- D. Support the development of value-added agricultural industry in Cascade County utilizing the products from the regional area.

APPLICANT states the project is not located on an active agricultural operation and is not located on productive soil. Through the lack of grading and maintaining the existing vegetation on the site, the project will not increase soil erosion from the subject property. The project is not located in a flood plain. The project will not negatively impact the agricultural economy.

STAFF: Based on the application materials submitted, there are no soil types that are prime farmland. The current use of the land is unfarmed but could be considered available to be grazed if the owners desired. The proposed use will prevent that portion of the property from being used for agricultural purposes in the area in which the panels would be located. Based on the application materials submitted, the proposed use will continue to protect soils against erosion. Any disturbed soils will be reseeded after construction. Based on the application materials submitted and review of the sites by the Cascade County Floodplain Administrator, the proposed solar facility is not located within the 100-year FEMA regulated floodplain and will protect the floodplain from nonagricultural development. Based on the application materials submitted, there is no evidence that this proposal will support the development of value added agricultural industry in Cascade County.

Goal 3 of the Growth Policy analysis by staff, concludes the applicant has demonstrated relative information for a determination that they have met, in part or in whole, Objective B with proper maintenance, and Objective C by not being located within the floodplain. It does not meet Objective A as the tracts of land will not be used for agriculture, and it does not meet Objective D as it would not support the development of value-added agricultural industry in the County utilizing products from the regional area.

Goal 4: Retain the presence of the US Military in Cascade County.

- A. Encourage the federal congressional delegation to actively support maintaining the current mission status at a minimum.
- B. Promote the location of additional military missions in Cascade County.
- C. Encourage the reactivation of the runway at Malmstrom Air Force Base for fixed wing operations.
- D. Refer to the Joint Land Use Study for resolving conflicts and promoting mission compatible development.

APPLICANT states the Project will not impede the activities of the US Military in the area. Additionally, Pacific Northwest Solar is supportive of the US Military and any activities in Cascade County.

STAFF: Based on the application materials submitted, the proposed solar farm will not impact US military facilities in the county and the solar farm is compatible with the above objectives.

Goal 4 of the Growth Policy analysis by staff concludes that the project does not impact positively or negatively the military's presence in Cascade County.

Goal 5: Preserve and enhance the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.

- A. Maintain Cascade County's citizens independent lifestyle and minimize local governmental intervention, to the extent possible, consistent with the requirements of a continually evolving economy and constantly changing population.
- B. Preserve and promote Cascade County's rich cultural heritage, rooted in natural resource development and reflected in its numerous cultural/historic sites and archaeological areas.
- C. Promote fire prevention measures throughout the county, giving special emphasis to the extreme fire hazards present at the wild land/urban interface.
- D. Encourage the continued development of educational programs and facilities, recreational opportunities and spaces and health services for all county residents.
- E. Consistency with the municipal and joint land use plans Incorporated by the Growth Policy.
- F.

APPLICANT states the Project will add to the economic diversity and the energy independence in Cascade County. The Project will not negatively impact cultural or historic areas in Cascade County. In order to reduce fire hazards, the project will maintain a low level of standing vegetation on the project site and will work with the fire department to ensure access and knowledge of the solar facility. The project will not negatively impact education programs, facilities, recreational opportunities and spaces, and health services in the County. The project is located in an area that will not create conflicts with current or planned future uses of the subject property and the surrounding areas.

STAFF: Based on the application materials submitted, it would be expected that the project would not interfere with the ability to maintain Cascade County's citizens independent lifestyle and minimize local government intervention due to increasing the diversity of the economy. Based on the application materials submitted, this project would not have an impact on preserving or promoting the county's rich cultural heritage or cultural/historic sites as this proposed site does not have any historical or cultural significance. The proposed use by this application would promote natural resource development. Based on the application materials submitted, the project is considered to meet this objective as the proposed use will not increase fire hazards significantly, and may be considered a good location given the close proximity to the Black Eagle Fire Department. Based on the application materials submitted,

the project would not positively or negatively impact educational programs and facilities, recreational opportunities and spaces and health services for all county residents. Based on the application materials submitted, the development of a solar plant on the proposed parcel should not create issues with the adjacent land uses being agricultural and non-developed aside from the proposed parcel.

Goal 5 of the Growth Policy analysis by staff, concludes the applicant has demonstrated relative information for a determination that they have met, in part or in whole, Objectives B, C, and D. Objective A "Maintain the citizen's independent lifestyle or minimize local governmental intervention" would not have an effect.

STAFF: Based on the application materials submitted, staff finds that the application can be considered to be generally consistent with the applicable Growth Policy goals and objectives and the use could be determined to be in conformity with the application of the analysis of the Growth Policy. Staff also finds that the application is consistent with our municipal and joint land use plans incorporated by the Growth Policy, specifically the Joint Land Use Study and the Development Coordination Area as the proposed use is not located within an area that would be in conflict with these functions.

Section 18.6 Operations in connection with the unclassified use permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

STAFF: Based on the application materials submitted, the operation of a solar power plant would not be more objectionable to nearby properties or current allowed uses which include Suburban Residential (housing and common accessory buildings, sheds, shops, garages), Agricultural (horse boarding facilities/corals, grazing land), Commercial (communication tower), Industrial and Utility (North Western Energy electrical substation and petroleum pipeline station, overhead electrical power lines) type uses which are visible throughout the area. The operation will not produce audible sounds from the property boundaries, will not produce any fumes or offensive odors during the process, there will be no vibrations associated with the project and no flashing lights would be placed on the property or equipment as part of this project. Therefore, it can be determined that this project would not be any more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

Other agency comments not included in the analysis of the growth policy:
FWP commented on 2017 observations of grizzly bears in the Northern Continental Divide ecosystem and stated that grizzly bears may use the area proposed for the bootlegger solar plant as their territory expands beyond the Rocky Mountain front and into the Great Falls area.

(MOTIONS?):

The following alternative motions are provided for the Board's consideration.

A. Alternative 1: Move the Unclassified Use Permit to allow the installation/operation of a photovoltaic solar power generation facility be **denied** due to (ZBOA member proposing denial must delineate legal reason that the application be denied):

or,

B. Alternative 2: Move the Board adopt the staff report and **approve** the Unclassified Use Permit to allow the installation/operation of a photovoltaic solar power generation facility on the property, subject to the following conditions:

1. Comply with applicable requirements in Section 8.9 "Power Plants" and Section 8.12 "Solar Power Plants" and Section 18 "Unclassified Use Permits" of the Cascade County Zoning Regulations.
2. Subject to section 18(3) Landscaping Buffer: as determined by the Zoning Board of Adjustment through the Unclassified Use Permit process with considerations of location, size of parcel and topography of parcel. Appropriate landscaping and/or screening materials may be required to help screen the solar power plant and accessory structures from major roads and neighboring residences.
 - a) Subject to section 18(6) Safety/Access: An appropriate security fence (height and material to be determined through the Unclassified Use Permit process) shall be placed around the perimeter of the solar power plant.
3. Final approval from the Montana Public Service Commission to generate and sell power.
4. All Storm Water generated will remain on the property being developed. All required permits must be obtained prior to construction.
5. Mitigate or alleviate any requirements by the F.A.A.
6. Provide routine maintenance of landscaping and buffer areas including proper weed control to prevent soil erosion, and properly maintain appearance.
7. Obtain an approach permit from the Montana Department of Transportation for the approach on and off of Bootlegger Trail.
8. The applicant obtains all required county, state, or federal permits and comply with regulations associated with any other permits.
9. Obtain an address for the site as required by Cascade County Public Works Department.

Chariman Bill Austin called for a brief 5-10 min Recess- recessed at 10:35 am

resumed at 10:42 am

Board Questions/Comments

Bill Austin asked is there any Questions?

Charles Kuether said I have accouple of questions Anna on your recommendations under alternative 2. 1.a you are talking about landscaping and in the bound material under the blue tab there is a discussion about landscaping is that meant to be incorporated into the recommendation where are we with that?

Anna Weber stated the landscaping buffer that is a recommendation is kind of a rough draft is kind of their first throw at you to tell you this is what we want to do. The representative can probably answer that better for you, I asked him to provide more detailed when they came.

Charles stated then under b) which is the same question on page 4 of the materials that are labeled Bootlegged Solar Pacific Northwest Solar there is a reference to a 6-ft. fence is that considered appropriate or where are we with the kind of a fence?

Anna Weber stated we looked over their plan for the height of their fence and we thought it was appropriate.

Alex Dachs stated so in short basically those 2 items need to be addressed by the zoning board if they choose to approve it and you can incorporate what they have submitted or you can put official requirements on there.

Charles Kuether stated that is kind of where I was going with the question

Applicant

Bill Austin asked would you like to address the board please.

Ryan Meyer with PNW Solar Management 9450 SW Gemini Dr Beaver, Oregon That was a really detail report I want to thank Scott for putting it together and detailing it out. I would like to quickly give you an overview of who we are and what the project is in the big picture and answer any questions you have I'm trying to be fairly brief on my part. Pacific Northwest Solar is a utility scale solar developer headquartered in the Pacific Northwest our offices are in Oregon and Colorado we have active developments of utility scale projects that go from approximately 2 mega watts in size is the littlest one all the way, to 80 mega watts in size the biggest one, pending in Washington, Oregon, Montana, Michigan, North Carolina, Florida, Georgia, Hawaii, Alabama, so all the way on the outside. The project that you have here is actually on the smaller scale of what we have it's a 3 mega waltz solar voltaic PV system it's called a Single Axis Tracker System so there are 2 ways to do solar projects two different types of technology some of the ones that are in the SW are the Concentrating Beam ones they are the ones that kill birds, those are usually the ones that people get mad about, these are vary passive systems they are either done as fix tilt meaning they are all stuck in the same position or in this case is on a single axes tracker so they are long essentially a mechanism that rotates the panels to follow the track of the sun which reduces glare ultimately increased the amount of ground surface that is seen which actually counters the all lake effect which was a concern with the Fish and Wildlife concerns and given the small scale of it its only 30 acres it's a very small project. We do think it's a well sited project its near good transmission lines, the project itself will absolutely interject additional dollars into the community by way of the construction efforts, about a 3-month construction time line for the project of this size and after that it is an unmanned facility and requires fairly infrequent maintenance. Most of the time the biggest concerns that we hear about solar project regardless of where we are at are tied to does it make noise? No, they don't make noise the only things that make noise are the invertors, they are located in the center of the project along the center access road, it would be inaudible there is inverters at the boundary lines. The only other biggest concern that we hear typically, is I can see it. Typically, we address that with a landscaping buffers, there is one that is proposed I think a generic format thus far, typically our landscaping buffers are green scape buffers that are planted with a variety of green trees and shrubs it will not exceed 10 feet in height because we don't want shade in the panels. If approved and the work that we are doing with Northwestern Energy goes though the budget we should be inline by the end of this year.

Bill Austin asked about the lake effect "Are you saying that birds think it's a lake"

Ryan responded that is what Fish and Wildlife flagged, it's not something that we ever had to deal with any of our projects, typically the lake effect is where large areas of solar panels can appear to be a lake or water to birds and the birds attempt to land on them, typically the ones they have been analyzing for 3 or 4 years according to the department of energy are the ones that are fifteen hundred acres solar farms in Southern California.

Bill Austin asked do they emit heat?

Ryan Meyer no, not really there is very minor heat, because of transfer of energy. Also, what's different is this project is the one of scale much smaller 30 acres compare to the ones most people are concerned about the ones on thousands of acres. Second our single axis tracker system you actually have to space them farther for rotation, to prevent shading of panels. We have never had that as a concern.

Charles Kuether stated the landscape proposal is mostly on the northern border of the property, is the height of the landscaping an issue at this time? **Ryan** no. **Charles** so, trees higher would not impact panels by shading, and then on your application page 8 of the report you said that the electricity produced by the project would reduce the amount of electricity that travels to Great Falls, my understanding is that most of the electricity leaves in Great Falls doesn't come to Great Falls.

Ryan stated I think to be fair no one knows where each electron goes after it jumps on the system power to the grid as distribution. Projects like these are deem distributed generation, these are project interconnects to the distribution system so theoretically offsets some additional input of energy that would have to be transferred from transmission system into that substation.

Charles stated so it doesn't make more dangerous one way or the other. **Ryan:** It doesn't the energy essentially connects to Northwestern Energy System and they are the ones that regulate the flow of power so that there is no grid instability. Our inverters have to go to approval.

Bill Austin asked How may inverters?

Ryan answered 2

Bill Austin asked Are they noisy cooling fans or something?

Ryan answered No, the only noise it's from cooling fans and they only run during the day.

The only other thing I want to address is that we are finding all the conditions of approval relative to the project the only question I have directed to everybody is B. sub section 2 final approval by the Montana Public Service Commission to generate power, the MPSC does not issue those approvals, as a subproject 80 Megawatt it automatically qualifies the MPSC only determines the contracting and the rates so we would ask that that portion would be removed.

Rob Skawinski asked do you have a contract with someone to sell the power?

Ryan answered, Yes, Northwestern Energy, so that entire project is governed by the MPSC 25-year contract.

Public Hearing opened at 10:54 am

Proponents:

Lillian Sunwall 709 2nd Ave. N representing Great Falls Development Authority GFDA is a public privet partnership our mission is to grow and diversify the Great Falls regional economy one of our strategic sectors is energy so, we support projects that look to increase the tax base increase our market competitiveness and promote alternative energy thank you.

Susan Hillstorm 607 3rd Ave SW citizen for clean energy, very exciting to have development coming to our area. I do have a question you said the property was privately owned, so your company leases the property? **Ryan** yes, we lease the property. **Susan** so that is a good way for these folks to have an extra source of income. Susan also express concern about development of rest of property. **Bill** stated that there would have to be a different permit to develop in the future. **Susan** asked about the height of the solar facility. **Ryan** answer was 6 to 8 ft. at the peak of its rotation. Also asked if the plant would provide Great Falls with greater energy security from the grid going down. **Ryan** generally if the higher grid goes down the control systems are NWE. What the benefit is you distribute the generation sources so if an individual Coal Strip would shut down a facility those are large facility that if it does go down that does present a greater stability issue, additionally some of the moneys that we have to pay to NWE go to upgrading at least a couple of miles of existing line so anytime that we have a solar project you'll find that a portion of it goes to upgrading existing lines which increases stability. Susan said that is all the questions I have I think it's a great thing thank you.

Susan Colvin 287 McIver Road commented on the Black Eagle Solar Project & wondered about the location. Asked 6 feet fence is adequate because of wildlife getting in and not being able to get out. **Rob** answered the fence is not for wildlife is for security reasons. **Susan** Will the panels be bright shinny? **Ryan** stated no, they are single axis do not glare black panels. **Bill** stated they are designed to absorb energy.

Ben Ives p. o. Box 263, 17 West County Line Black Eagle lives two miles North of the proposed site the grass that grows in that land will not sustain grazing. I know because we have 20 acres and 4 horses and we feed them 2/3 of the year, so that land is very valuable to the County in this type of use. You have transmission lines though they are already, I think is a good project for that area.

Opponents: none

Public Hearing closed at 11:05 am

Board Discussion and Decision

Rob Skawinski asked about the landscaping plan. It was unclear what they were going to do the paragraphs about the establishment period typically 3 to 5 years the plants would be water by a small ATV as part of the operation. If we are requiring a landscaping plan I would prefer that it would be well maintained or don't require one at all because of the ground is all clay for the most part which is what we just heard, with no irrigation system it does not grow well or at all. I think that needs to be addressed one way or the other.

Bill Austin agrees that land scaping or trees would not work out there anyway agrees with Rob, doesn't see a need and not sure if it will be effective.

Susan Colvin commented contact a plant specialist, and explore native plants that might be able to survive, lilacs grow well in Great Falls.

Bill asked do you have an idea?

Rob said No just to go one way or the other. Just so they don't go planting a bunch of trees and then they all die that would look worse.

Ben Ives said directly west of Bootlegger the gentleman that owns that land has made a windbreak on either side of his road up to his horse shed (caragana bushes) but it hasn't grown, feels landscaping not providing visual relief. To me it's the vision of progress.

Charles Keuther asked were the people that would be affected by the lack of landscaping notified?

Anna stated, there is an entire parcel between the residents on Bootlegger lateral and solar panels. We have received no letters.

Bill stated personally I don't think it needs it myself, everybody worries about the landscaping, but you don't notice the panels half of the time anyway and it's like the gentleman in the back was saying you get used to them and pretty soon that's the way it is and a new person buying it's going to know that they are there and make their decision accordingly I, don't think it's necessary.

Charles Kuether said the people to the north would be seeing the back side of the panels not the front, more times than not when I hear objections to panels it's the reflection they create minimizing with the single axis anyway so I'm with Rob I'm not sure I see a need for landscaping at this point and if we try to do it I'm not sure how successful it would be. I live on some fairly marginal land and I planted a shelter belt over the last 20 years, I replanted several hundred trees and I do have a drip system to each of my trees and they still don't thrive even when you try pretty hard you have marginal results.

Rob Skawinski said we only received 12 inches of rain per year. To install irrigation system is not going to be cost effective. We don't think it's necessary.

Charles Kuether my suggestion would be to eliminate sub A.

Bill Austin asked for additional comments/ discussion.

Leonard Reed Motion Alternative two move that the board adopt staff Report and approve the unclassified use permit to allow the installation Solar Plant generation facility on the property subject to the conditions that have being mention below it.

Bill "But you want to leave out the landscaping buffer or eliminate it?"

Len Reed does not have feelings one way or another.

Charles Keuther **seconded the motion** Eliminate would be in favor of motion if landscaping and item and number 2 about Public Service Commission.

Len made an amendment his motion to eliminate 2 and landscaping buffer requirement.

Charles Keuther second the motion.

Bill stated the motion is made and seconded, with some changes in the conditions to approve the project.

All in Favor, (4-0) Motion passes

Charles Keuther clarified if the fencing requirements need to be addressed as well or if its adequate.

Alex Dachs stated the board can approve what was submitted in the application packet, or could add additional conditions requirements if they feel necessary.

Bill Austin in favor of the fencing plan

5. OLD BUSINESS:

None

6. PUBLIC COMMENTS REGARDING MATTERS WITHIN THE ZONING BOARD OF ADJUSTMENTS JURISDICTION:

None

7. BOARD MATTERS: Alex introduced new receptionist Natalia Wilson to the board. Also asked about the availability of board members for future meetings, Bill Austin said he would be gone minimum of 3 weeks. Alex stated that will put us in May. Bill asked if they found anybody to fill the other seat? other members stated They are taking applications. Bill Austin asked did everyone get a chance read concerns that we had last time and see the Email of Fernando's response.

Fernando Terrones stated as I was telling Sandor I did not want to speak off the cuff because I did not know if there is an exemption so I will look into it.

Charles Kuether stated it's nice to have something in writing rather than relying on memory.

8. ADJOURNMENT:

Rob Skawinsky motioned to adjourn.

Charles Kuether seconded motion.

All in Favor, Motion passed. Meeting adjourned at 11:16 am

William C. Austin
Chairman Bill Austin

5-17-18
Date

Brian Clifton
Brian Clifton

5/18/18
Date